

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

JOSEPH M. CASTILLO,

Plaintiff,

v.

No. 1:18-cv-01185-JCH-JHR

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,

Defendant.

**MEMORANDUM OPINION AND ORDER OF DISMISSAL**

**THIS MATTER** comes before the Court on Plaintiff's Response, Doc. 4, filed January 4, 2019, to the Court's Order to Cure Deficiency, Doc. 3, filed December 18, 2018 ("Cure Order").

**Application to Proceed *In Forma Pauperis***

Plaintiff filed a Complaint but did not pay the \$400.00 fee for instituting a civil action or file an "Application to Proceed in District Court Without Prepaying Fees or Costs," ("Application"). The Court ordered Plaintiff to either pay the fee or file an Application, and sent Plaintiff an Application form. Plaintiff did not pay the fee or file a completed Application, but instead filed a Response. The Court construes Plaintiff's Response as an Application to proceed without prepaying fees or costs because it references the Cure Order and the Application to proceed in District Court without paying fees, declares that Plaintiff is entitled to the relief requested, and is signed by Plaintiff. The Court grants Plaintiff's Application to proceed without prepaying fees or costs. *See Adkins v. E.I. DuPont de Nemours & Co.*, 335 U.S. 331, 339 (1948) (While a litigant need not be "absolutely destitute," "an affidavit is sufficient which states that one cannot because of his poverty pay or give security for the costs and still be able to provide himself and dependents with the necessities of life").

## **Dismissal of the Case**

Plaintiff's 148-page Civil Rights Complaint Pursuant to 42 U.S.C. [§] 1983, Doc. 1, filed December 17, 2018 ("Complaint"), consists of many pages which are largely unintelligible and copies of various documents including a copy of a Charge of Discrimination Plaintiff filed with the Equal Employment Opportunity Commission ("EEOC") and a copy of an EEOC Dismissal and Notice of Rights issued to Plaintiff. *See* Complaint at 29-30. The Court was unable to discern in the Complaint any claims against Defendant EEOC on which relief may be granted. *See Adler v. Wal-Mart Stores, Inc.*, 144 F.3d 664, 672 (10th Cir. 1998) ("the district courts . . . have a limited and neutral role in the adversarial process, and are wary of becoming advocates who comb the record of previously available evidence and make a party's case for it").

The Court will dismiss this case for failure to state a claim. *See* 28 U.S.C. § 1915 (e)(2) ("the court shall dismiss the case at any time if the court determines that . . . the action . . . fails to state a claim on which relief may be granted").

**IT IS ORDERED** that:

- (i) The Court **GRANTS** Plaintiff's Application to proceed without prepaying fees or costs.
- (ii) The Court **DISMISSES** this case **without prejudice**.



**UNITED STATES DISTRICT JUDGE**